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OUTSOURCING: SHORT TERM COSTS AND HUMAN RESOURCE ISSUES

by

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June 1997

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OMB Circular A-76 provides guidance for estimating the cost of commercial activities that are candidates for outsourcing. The benefits of outsourcing these activities are greater efficiency, better service, and reduced costs. However, outsourcing has experienced very little success. This is in large part due to DOD's reluctance to rely on inorganic assets, resistance from Congress and the executive branch, public-employee union's criticism, improper incentives for Base Commanders, prohibitive short term costs and the cumbersome A-76 requirements. To realize the benefits of outsourcing DOD must: fund programs that encourage volunteer separation, streamline the requirements of the A-76 Circular, provide training for employees who complete the A-76, provide activities incentives to complete the process, fund outsourcing's short term costs, fund staffs trained to handle outsourcing's human resources issues, and seek modification of current bumping and retreating policies.

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OUTSOURCING: SHORT TERM COSTS AND HUMAN RESOURCE ISSUES

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ABSTRACT

OMB Circular A-76 provides guidance for estimating the cost of commercial activities that are candidates for outsourcing. The benefits of outsourcing commercial activities are greater efficiency, better service, and reduced costs. However, DOD has experienced modest success outsourcing its commercial activities. This study exams DOD's limited success outsourcing commercial activities. Research was conducted by: studying the requirements of OMB Circular A-76; conducting interviews with comptrollers, base commanders, and human resources personnel; reviewing pertinent United States Codes and Codes of Federal Regulations; and reviewing court rulings establishing legal precedence. Outsourcing has experienced limited success due to DOD's reluctance to rely on inorganic assets, resistance from Congress and the executive branch, public-employee union criticism, improper incentives for Base Commanders, prohibitive short term costs, and cumbersome A-76 requirements. To realize the benefits of outsourcing DOD must: fund programs that encourage volunteer separation, provide training for employees who complete the A-76, provide activities incentives to complete the process, fund outsourcing's short term costs, fund staffs trained to handle outsourcing's human resources issues, seek modification of current bumping and retreating policies, and streamline A-76 Circular requirements.

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I. INTRODUCTION

A. PURPOSE

The Navy's Program Objective Memorandum (POM) for fiscal 1998 included a wedge projecting over $3 billion in savings from outsourcing competition. In a recent message, the Chief of Naval Operations (CNO) directed that activities must initiate outsourcing competition to meet this goal. This effort continues a cost savings effort begun with the Defense Management Review of 1990. This thesis will discuss the Office of Management and Budget (OMB) process of contracting out these services, which is established by Circular A-76, define outsourcing's short-term cost, and discuss legal and Equal Employment Opportunity implications. This chapter will discuss the history of contracting out.

B. BACKGROUND

Outsourcing, also known as privatization or contracting out, is receiving a lot of the government's attention. The word privatization did not exist until it appeared in the Webster's dictionary in 1983. [Ref. 1:p. 2] Webster defines privatization as the process of changing from public to private control or ownership. This change or threat of change from public to private control can lead to greater efficiency and cost reductions. Regardless of political affiliation, many public officials speculate that privatization can help them balance the budget without increasing taxes or decreasing services. Secretary of Defense William Cohen has indicated that he will push for increased procurement to modernize the Armed Forces. With the shrinking discretionary federal budget, the Department of Defense (DOD) will need to be innovative in financing the modernization effort or be forced to take it out of existing programs. Proposals have been floated to reduce the number of personnel and/or reduce infrastructure. Service Chiefs are already jockeying for position to protect

what they have from the budget knife. The Army could lose 50,000 people, the Navy 20,000, and the Air Force 10,000. These kinds of numbers have the Service Chief's attention and are forcing them to take a look at outsourcing government activities.

There are two types of activities performed by the government; commercial activities and inherently governmental activities. OMB defines a commercial activity as "the process resulting in a product or service that is or could be obtained from a private sector source." Examples of commercial activities are janitorial services, maintenance services, grounds keeping, and supply and warehousing. OMB defines an inherently governmental activity as "one that is so intimately related to the exercise of the public interest as to mandate performance by federal employees. These functions include those activities that require either the exercise of discretion in applying Government authority or the making of value judgements in making decisions for the government." [Ref. 2:p. 3] Only commercial activities are candidates for outsourcing.

Numerous examples can be cited of increased efficiency and reduced cost when comparing private and public service's cost of performing commercial activities. In his statement to the House Committee on the Budget, Wisconsin Congressman Scott Klug discussed the benefits of privatizing the Naval Petroleum Reserve at Elk Hill in Southern California. He stated, "Of the eighty percent of the petroleum reserve now run by the federal government, Bechtel has an average of seventy workers per one hundred wells. Chevron, which has fields literally right next door, has an average of twelve workers per one hundred wells." [Ref. 3:p. 3]

DOD has had success with privatization. At Vance Air Force Base, about one thousand employees of Northrop Aircraft Service perform jobs for which other comparable Air Force bases utilize twice the number of military and government workers. In the aircraft-maintenance hangars at Vance, where T-37 and T-38 trainer

jets are overhauled, four-man crews are cross-utilized to play three or more roles; other bases typically perform these roles with separate teams of hydraulic, engine, and electrical specialists, often twelve in all. Vance regularly has a lower percentage of its planes grounded for maintenance than these other bases, meaning that a higher quality of service is being provided at less cost. In the supply, transportation, and procurement building, a twenty-two year retired veteran of the Air Force directs a single department that other bases operate as three departments. Under him, about one hundred employees operate base-supply and fuels functions that bases elsewhere perform with two hundred and twenty-five people.... All over the base, Northrop uses working supervisors and multi skilled workers.... Nearly $9 million annually is saved -22 % below the cost at comparable bases- by using a private contractor at Vance. [Ref. 4:pp. 223-224]

What is different between the civilian operations at the Elk Hill Naval Petroleum reserve and Vance Air Force Base, and comparable operations performed by the government? The difference is simple. Competition and profit incentives are much stronger in the private sector than any government incentive program. For management and workers, incentives do not encourage the same results from private sector and government workers. In the private sector, management's primary objective/incentive is profit. This leads to more innovative thinking and efficiencies that drive down cost and increase profits. The private sector workers have incentives and opportunities not offered to a government worker.

The Pentagon and the Office of Management and Budget (OMB) acknowledge the success at Vance and refer to it as, "the most cost-effective base in the U.S. Air Force." [Ref. 4:p. 224] However, DOD has few examples of services contracted out to the private sector. This leads to the question of, "Why?" There are five readily identifiable reasons:

1. DOD reluctance to rely on inorganic assets.

2. Resistance from Congress, the executive branch and the bureaucracy.

3. Public-employee union criticism.

4. Improper incentives for Base Commanders.

5. Prohibitive short term costs.

C. RESEARCH QUESTIONS

1. Primary Research Question

Based on data acquired while closing Naval Air Station (NAS) Alameda and Naval Station (NS) Oakland, what separation alternatives can Base Commanders expect separating civilian employees to take and what short term costs are associated with each?

2. Secondary Research Question

a. How can activities reduce short term costs?

b. What are the legal implications of a RIF?

c. What are the impacts of a RIF on Human Resource issues?

d. What are an activity's obligations to outsourced employees?

D. METHODOLOGY

The objectives of this thesis are to review current contracting out policies, evaluate the results of those policies, and determine the potential short term costs associated with contracting out. This will be accomplished by reviewing:

- Published academic research papers.

- Published GAO and OMB reports.

- References, publications, and electronic media available at the Naval Postgraduate School (NPS) and the University of California at Santa Cruz libraries.

- Internet web-sites and home pages (DOD, Executive Branch, commercial, and academic).

- Interviews with NPS faculty and staff (Public Works Officer (PWO), Human Resources Officer (HRO), and current and former Comptrollers at NAS Alameda and FISC Oakland.

E. BENEFITS OF STUDY

During the Base Realignment and Closure (BRAC) process and personnel reductions of the past several years, Base Commanders have not had guidance to follow for planning and carrying out reductions, or any data to help estimate costs associated with personnel reductions. This study will provide a template for estimating personnel reduction costs, a brief discussion of alternative separation methods for personnel reductions, and a list of lessons learned by commanders and comptrollers of activities faced with personnel reductions.

II. OFFICE OF MANAGEMENT AND BUDGET CIRCULAR A-76

A. CHAPTER INTRODUCTION

The Federal government's contracting out policies began during the Eisenhower administration. In 1955, President Eisenhower signed a historic presidential directive specifying that "the federal government will not start or carry on any commercial activity to provide a service or product for its own use if such a product or service can be procured from private enterprise." Though well-intentioned, this policy statement was replaced in 1966 by OMB Circular A-76. [Ref. 1:p. 65] This chapter will describe OMB Circular A-76, review the cost generation process, analyze cost comparison criteria, discuss legislation affecting the circular, and explore the cost estimating process. Also discussed is the effect legislation has on the number of cost estimates undertaken by DOD.

B. BACKGROUND

In its 1991 report to the Subcommittee on Defense Appropriations, the General Accounting Office (GAO) reported on OMB Circular A-76. The following summary of this report provides background and information on the policy of federal agency's job costing estimation.

> OMB Circular A-76 established the policy guiding federal agencies in determining the most economical way to carry out their commercial activities. The circular requires agencies to review their commercial activities to determine whether it is more economical to retain the work in-house or to contract it out to the private sector. This review consists of the following major segments:

- Preparation of a performance work statement that, among other things, describes the work required and serves as the basis for contractor bids; and
- A management study containing the government's estimate of the lowest number and types of employees required to do the functions described in the work statement-generally referred to as the "most efficient organization" (MEO) that, along with other estimated costs associated with in-house performance, will allow an agency to develop a total cost for in house performance. [Ref. 5:pp. 1-2]

The agency compares the estimated in-house cost with private-sector contractor bids. The A-76 requires the awarding of a contract to the contractor who is judged by the agency to be most capable of meeting all the government's quality, timeliness, and quantity standards, provided that (1) the total cost of the contract performance is less than the in-house bid, and (2) the margin of difference between the total cost of the contract performance and the in-house bid exceeds 10 percent of the personnel costs or $10 million over the performance period of the in-house bid. When a contract is awarded, the government work force is to be reassigned.

If the above conditions are not met , the activity is to be retained in-house and completed by the government civilian workers. Affected parties can file an appeal as a safeguard to help ensure that the decision is equitable and in accordance A-76 procedures.

C. GENERATING A COST COMPARISON

Figure 2.1 shows the generic A-76 Cost Comparison form used for comparing in-house performance and contracting costs for commercial activities. Figure 2.2 is the streamlined A-76 cost comparison form used for commercial activities with sixty-five full time equivalents (FTE) or less.

The Generic A-76 Cost Comparison Form (GCCF)

In-House vs. Contract or ISSA Performance

	Performance Period					
	1st	2nd	3rd	Add'l	Total	Reference
IN-HOUSE PERFORMANCE						
1. Personnel						
2. Material and Supply						
3. Other Specially Attributable						
4. Overhead						
5. Additional	____	____	____	____	____	
6. Total In-house						
CONTRACT OR ISSA PERFORMANCE						
7. Contract/ISSA Price						
8. Contract Administration						
9. Additional						
10. One Time Conversion						
11. Gain on Assets	( )	( )	( )	( )	( )	
12. Federal Income Taxes	( )	( )	( )	( )	( )	
13. Total Contract or ISSA						
DECISION						
14. Minimum Conversion Differential					____	
15. Adjusted Total Cost of In-House Performance					____	
16. Adjusted Total Cost of Contract or ISSA Performance					____	
17. Decision-Line 16 minus Line 15					____	
18. Cost Comparison Decision: Accomplish Work						
In-House (+)					____	
Contract or ISSA (-)					____	

Figure 2.1. The Generic A-76 Cost Comparison Form (GCCF)

The Generic A-76 Cost Comparison Form (GCCF)

In-House vs. Contract or ISSA Performance

19. In-House MEO Certified By: ________________ Date:______

____

Office and Title

"I certify that, to the best of my knowledge and belief, the in-house organization reflected in this cost comparison s the most efficient and cost effective organization that is fully capable of performing the scope of work and tasks required by the Performance Work Statement. I further certify that I have obtained from the appropriate authority concurrence that the organizational structure, as proposed, can and will be fully implemented -- subject to this cost comparison, in accordance with all applicable Federal regulations".

20. In-House Cost Estimate Prepared By: ______________ Date:______

21. Independent: ______________ Date:______

____

Office and Title

"I certify that I have reviewed the Performance Work Statement, Management Plan, In-house cost estimate and supporting documentation available prior to bid opening and, to the best of my knowledge and ability, have determined that: (1) the ability of the in-house MEO to perform the work contained in the Performance Work Statement at the estimated costs included in this cost comparison is reasonably established, (2) that all costs entered on the cost comparison have been prepared in accordance with the requirements of Circular A-76 and its Supplement."

22. Cost Comparison Completed By: ______________ Date:______

23. Contracting Officer: ______________ Date:______

24. Tentative Cost Comparison

Decision Announced By: ______________ Date:______

25. Appeal authority (if applicable) ______________ Date:______

Figure 2.1. The Generic A-76 Cost Comparison Form (GCCF) Continued

The Streamlined A-76 Cost Comparison Form (SCCF)
(Limited to 65 FTE or Less)

In-House vs. Contract or ISSA Performance

	Performance Period					
	1st	2nd	3rd	Add'l	Total	Reference
IN-HOUSE PERFORMANCE						
1. Personnel						
2. Material and Supply						
3. Overhead						
4. Other	____	____	____	____	____	
5. Total In-house						
CONTRACT OR ISSA PERFORMANCE						
6. Contract and ISSA Price Range						
7. Contract Administration						
8. Federal Taxes (-)						
9. Total Contract and ISSA Price Range	____	____	____	____	____	
DECISION						
10. Minimum Conversion Differential					____	
11. Adjusted Total Cost of In-House Performance					____	
12. Adjusted Total Cost of Contract or ISSA Performance					____	
13. Decision-Line 12 minus Line 11					____	
14. Cost Comparison Decision: Accomplish Work						
Perform In-House (+)						____
Convert to Contract or ISSA (-)						____

Figure 2.2. The Streamlined A-76 Cost Comparison Form (SCCF)

(Limited to 65 FTE or Less)

The Streamlined A-76 Cost Comparison Form (SCCF)
(Limited to 65 FTE or Less)

In-House vs. Contract or ISSA Performance

15. In-House Cost Estimate Prepared By: ______________ Date:______

16. Independent Reviewer: _______________ Date:______

____
Office and Title

"I certify that I have reviewed the proposed contract, in-house and ISSA cost estimates and contract prices and find them to be reasonable and calculated in accordance with the principles and procedures of Circular A-76 and its supplement."

17. Cost Comparison Completed By:____________________ Date:______

18. Contracting Officer: ____________________ Date:______

19. Tentative Cost Comparison
    Decision Annouced By: ____________________ Date:______

20. Appeal Authority (if applicable) ____________________ Date:______

Figure 2.2. The Streamlined A-76 Cost Comparison Form (SCCF) (Limited to 65 FTE or Less) Continued

These two page forms appear relatively simple and straight forwarded. However, the revised edition of Circular A-76 (transmittal memorandum number fifteen) dated March 27, 1996, contains seventy-eight pages of requirements and instructions for completing these two page forms. Within the seventy-eight pages are requirements that create additional work load for the in-house staff. This additional workload results from the circular's requirement that agencies compile data to complete the Performance Work Statement (PWS) and the Most Efficient Organization (MEO). The cost study process can take years to complete and can reduce the morale and productivity of the federal employees whose jobs are at stake.

The reduction in morale and productivity has a ripple effect throughout the activity being studied. This ripple effect is caused by the seniority structure within the civil service system. Current regulations stipulate that an employee who is a candidate for reduction-in-force(RIF) is eligible to take the position of a more junior employee with similar skills. Theoretically, a plumber who has, in the past, filled a secretarial/clerical government position, can take the position of a secretary with fewer years of civil service. This process is commonly referred to as "bumping and retreating within the command." This bumping and retreating results in periods of dynamic change within the command as people relinquish old positions and assume new ones. Depending on the timing and degree of downsizing, this can occur two to three times per year. The new make-up often leaves managers with personnel who have antiquated skills as well as a significant learning curve adjustment as these skills are updated. This can affect the number of personnel required in the MEO.

The cost study process also impacts the morale of the activity managers. DOD managers have testified to the GAO that they feel Circular A-76 micro manages their operations and is exceedingly disruptive to the labor force. In an interview for this thesis, a local area manager conveyed his experience with employees who are

candidates for a RIF. In his November meetings with these employees, he fielded questions like, "Should I buy Christmas presents?, Should I start braces for my children?" Stress is created at all levels of the military and civilian organizations. However, most managers agree that significant cost savings can be achieved through outsourcing.

D. COSTING COMPARISON

This cost comparison is unfairly tilted against private contractors. Some of the handicaps imposed include the following: [Ref. 1:pp. 65-66]

- A large penalty is imposed by the requirement that the private contractor's bid beat the in-house cost estimate by at least ten percent of personnel costs or $10 million over the performance period. Previous requirements were based on the transition cost vice personnel cost. Transition cost can be lower than personnel cost. Therefore, the contractor must now beat the in-house estimate by a larger amount. This shift has made contracting out more difficult rather than easier. With a decreasing budget, this may be a move in the wrong direction. Maybe, the requirements should even be reversed: the federal agency should be required to beat the private contractor by greater the 10 percent of personnel cost.
- The private bidder must submit a firm contract proposal with a fixed price, whereas the agency is only required to submit a cost estimate. This places the private bidder at a significant disadvantage; if the private bidder's actual costs exceed its expected costs, it will not receive additional Federal funds and may take a loss on the contract. By contrast, the agency is not penalized for submitting low-cost estimates. It can simply request supplemental agency funds midway through the project. Even in the current era of tight budgets, agencies can request and often receive supplemental funding.
- The commercial firm's bid must include indirect costs, while the agency's estimate does not. The U.S. Chamber of Commerce estimated that this alone represents 20 to 30 percent handicap for the private bidder.

- In negotiated procurement, very low bids may be rejected as being "outside the competitive range." This rejection of lower bids allows more commercial activities to stay in-house.

E. COST ESTIMATE TIME FRAMES

On average, cost studies have taken DOD agencies about two years to complete, and 40 percent have taken more than two years. Figure 2.3 shows the time taken to complete cost studies.

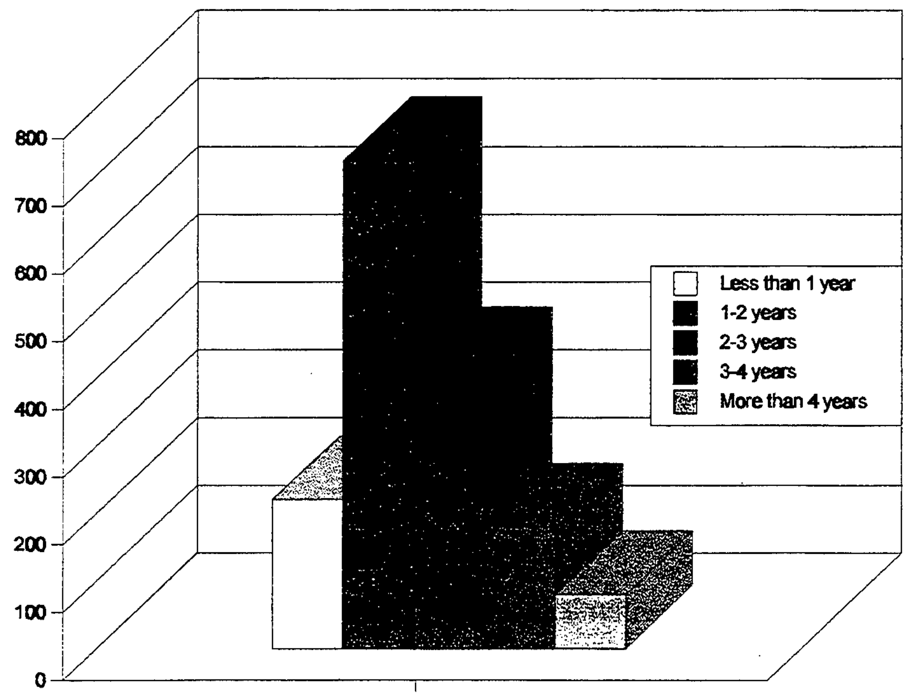

Figure 2.3. Time Taken to Complete DOD A-76 Cost Studies [Ref. 6:p. 17]

The cost study completion times shown are critical to meeting the CNO's stated purpose of saving $3 billion in fiscal year1998 through outsourcing. Many studies have been ongoing and may be completed in time for the 1998 budget, but many of the functions on the list have not initiated their cost studies. Only one

of the four NPS activities identified as candidates for outsourcing had a cost study in progress when the CNO's message was received. The Navy's Outsourcing Support Office (OSO) has developed a methodology that could reduce completion times for outsourcing competitions to less than a year. However, it has not been field-tested or refined.

Problems associated with completing the cost estimates were identified by the GAO in 1988. For example, the PWS and MEO are completed by managers and employees whose jobs are at risk. Federal workers should not be required to study themselves out of a job. In addition, these same employees are not properly trained to complete the PWS used to develop the MEO. In-house staff have difficulty precisely defining just what they do, and the standards of performance and quantity of workload that the government is providing and expects to provide in the future. Contract errors result from a poorly written PWS creating additional cost.

In addition to the difficulties associated with preparing the PWS and MEO, the Army Inspector General identified several other problems in PWS preparation, including: [Ref. 6:p. 19]

- Difficulties with guidance in OMB supplements to the circular,
- The lack of a lessons learned feedback to users,
- Inability of commercial activities to fully describe their activities,
- The absence of management information systems to collect accurate work load data.

OSO's training and new streamlined approach may address these issues but the success rate will not be known until the new approach has been field tested and refined.

F. LEGISLATIVE INTERFERENCE

In addition to giving an unfair advantage to retaining work in-house and the strenuous requirements of completing the circular requirements, outsourcing has been further encumbered by additional Congressional legislation. The National Defense Authorization Act for fiscal years 1988 and 1989 included the Nichols Amendment. The amendment decentralized A-76 authority in the military services. The provision gave individual military installation commanders the authority and responsibility to determine, without approval from A-76 officials at the services' headquarters, which commercial activities at their facilities would be studied. Though decentralizing authority and placing the decision making at the local level can be more efficient, the provision did not give base commanders the proper incentives. In an interview for this thesis, a local base commander lamented that contracting out more commercial activities will cut his already severely reduced budget. Incentives as small as five to ten percent of outsourcing savings would encourage base commanders to contract out. These incentives could be used to apply additional resources to needed areas throughout the organization.

The following is a list of Congressional restrictions which reduce the number of DOD commercial activities eligible for outsourcing:

- Army depots are required to maintain civilian personnel levels for communications-electronic depot maintenance at a number above the levels on September 30, 1985.
- Contracting out is forbidden for functions not already performed under contract at the Crane Army Ammunition Activity, or the McAlester Army Ammunition Activity.
- The Corps of Engineers is prohibited from doing A-76 studies at any reservoirs in Mississippi.

- DOD is prohibited from contracting more than 40 percent of depot maintenance functions.[1]
- DOD is prohibited from contracting out core logistics functions. OMB reports this restriction affects 75,000 positions and potential savings estimated at $1.5 billion annually.
- DOD is prohibited from contracting out fire and security activities.[2]

DOD is not alone in being restricted by Congressional legislation. Ten other Executive agencies must deal with legislation that limits their contracting out initiatives.

G. DECLINING NUMBER OF STUDIES

The cumbersome costing process, insufficient training for in-house staff, and interference from Congress, have all contributed to a decline in the number of cost studies undertaken by DOD. Figure 2.4 shows the decline in studies from 1987 to 1991. The Nichols amendment, which took effect in 1988, had a dramatic effect on the number of studies in process. Services canceled 394 studies by May 5, 1991. These cancellations occurred because Base Commanders did not expect the studies to be completed in the mandated 2-year or 4-year completion time frames. A GAO 1991 report stated Base Commanders, "chose not to start new studies when they were not convinced of the A-76 program's benefits."

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[1]In FY 1996 & 1997, DOD has requested a move to 50 percent in-house and 50 percent contracting. This request has been blocked by members of the Depot Operations Subcommittees of the House and Senate Armed committees and House and Senate Appropriations committees.

[2]In the 1997 Defense Appropriations Act, Congressman Sam Farr included a special provision allowing Monterey Peninsula Area DOD activities to contract out fire and security services.

One possible explanation for the decline in cost studies, which will be analyzed in this thesis, hypothesizes that these Base Commanders are faced with the short term cost associated with the reductions-in-force required by the contracting out process. These short term costs combined with the length of required time to complete the studies and recapture the transition cost, give Base Commanders little incentive to pursue outsourcing. With the CNO's emphasis on outsourcing commercial activities, the number of studies will significantly increase in 1997. The Department of the Navy's Biennial Budget for FY 1998/1999 expects outsourcing studies will be conducted on 20,000 military and 55,000 civilian jobs.

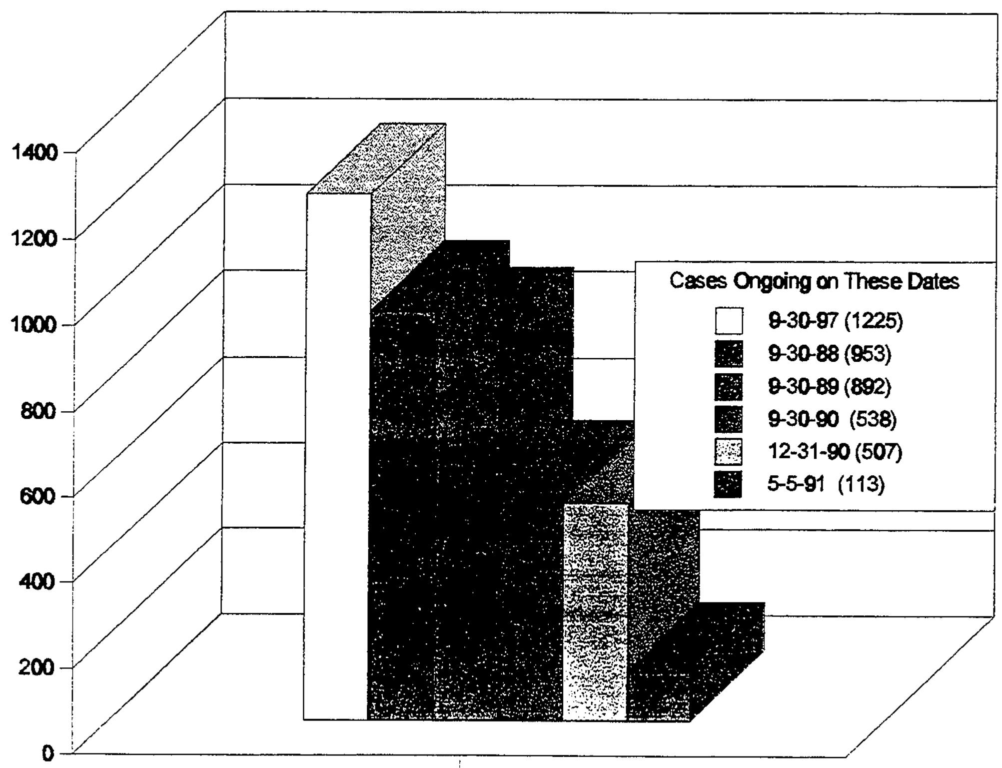

Figure 2.4. Service's Ongoing A-76 Cost Studies [Ref. 5:p.6]

III. OUTSOURCING'S SHORT TERM COST

A. CHAPTER INTRODUCTION

Base Commanders considering outsourcing alternatives must adequately plan for the short term costs. These short term costs are associated with buy outs and relocating departing civilian personnel. Additional costs are generated when employees depart before outsourcing contracts take affect. Base Commanders must work closely with their Major Claimants to prevent end of year budget shortages.

Employees caught in base closures or contracting out activities have numerous options for leaving the position being eliminated. Many of these options generate short term costs in the losing activity. The following eight departure options were compiled from data provided by NAS Alameda and FISC Oakland:

1. Personnel Priority Placement Program (PPP)/Stopper Match.
2. Variable Separation Incentive Pay (VSIP) upon resignation or separation.
3. Regular retirement/Retirement with VSIP.
4. VSIP with optional Variable Early Retirement Annuity (VERA).
5. Reduction in Force (RIF).
6. Transfer to another federal activity.
7. Termination/Medical Termination.
8. Voluntary resignation/separation.

This chapter will briefly discuss each separation program and provide formulas to estimate their short term cost. This chapter drew extensively from copies of OPM's Employee's Buyout Guide and in-house documents provided by NPS's Human Resources Office.

B. PERSONNEL PRIORITY PLACEMENT PROGRAM/STOPPER MATCH

The Personnel Priority Placement Program (PPP) was developed in 1965 by the Secretary of Defense. It provides involuntarily displaced employees an opportunity to fill a vacant position at another activity. Today, the PPP is a unified Defense-wide effort to assist:

- Displaced federal employees.
- Non-displaced overseas returnees and family members.
- Military spouses.

The releasing activity can expect to pay travel expenses, moving expenses, and pre-employment physical expenses of RIFed employees. Moving expenses can cost tens of thousands of dollars for a single employee, depending on the circumstances of the hiring and the employee's grade. Moving costs include real estate expenses, transportation for the employee and dependents, temporary quarters allowance, moving household goods, and non-temporary storage of household goods. NAS Alameda obligates approximately $38,500 per PPP employee.

The receiving activity can expect additional expenses for grade and pay retention. Grade retention allows a RIFed employee taking a lower graded position at another activity to retain grade for two years. Pay retention is granted to an employee whose rate of basic pay would otherwise be reduced as a result of:

- Expiration of two year period of grade retention.
- A reduction or elimination of special rates.
- Placement from a special rate position to a non-essential rate position.
- Placement in a different pay schedule.

The following example illustrates the interaction of grade and pay retention that results in increased cost to the receiving activity. A transferred individual's retained pay is GS-11, Step 10 ($47,353) and he/she is placed through the PPP into a GS-7, Step 10 position ($31,995). Since the pay rate at the GS-7 Step 10 level is lower than the GS-11 Step 10, the individual would be placed at GS-7 Step 00 and retain his/her salary at the GS-11 Step 10 level. They remain in this status until given a salary that is higher than their retained pay.

The Defense Data Support Center (DDSC) in Dayton, Ohio acts as a clearinghouse of resumes. They list an overview of the registrants' employment data, to ensure displaced federal employees receive priority consideration on positions at other activities. This data base is often called the stopper match list. Activities seeking to fill a vacancy must clear prospective employee's resumes based on the following priorities:

<u>Priority 1</u>: 1. A person being RIFed with no offer of continuing employment.

2. A person being furloughed for six or more months.

<u>Priority 2</u>: 1. A person who has received a RIF notice for separation and is offered a change to a grade two or more grades lower than their current position.

2. A person who declines a functional transfer.

3. A person who receives a RIF notice and declines an offer of reassignment outside the commuting area.

4. A person who has received an involuntary change to a lower grade of two or more grades due to a reclassification.

Priority 3: 1. A person who receives a RIF notice for separation but is offered a change to a lower grade by one grade.

2. A person receiving an involuntary change to a lower grade by one grade due to a reclassification.

The above list of priorities only includes situations involving a RIF. Other PPP priorities result from overseas returnees, military spouses, etc.... OMB instructions include an additional twenty-one exceptions to this abbreviated priority list.

C. VARIABLE SEPARATION INCENTIVE PAY (VSIP)

The purpose of a VSIP is to minimize or avoid involuntary separations through costly and disruptive RIFs. The cost of separating an employee by RIF is far greater than paying employees to depart voluntarily. VSIPs are awarded to employees departing via resignation, early retirement, or regular retirement. The most current features of the VSIP, sometimes referred to as buyouts, were included in the Fiscal Year 1997 Omnibus Spending Law, Public Law 104-208, dated September 30, 1996.

Under this law, the amount of the buyout is equal to the lesser of:

1. The severance pay calculation;

2 $25,000; or

3. An amount determined by the agency head.

An employee is eligible to receive a buyout if the employee:

1. Receives a buyout offer on or after October 1, 1996 and before December 31, 1997;

2. Accepts the buyout offer;

3. Voluntary retires, retires under early retirement, or voluntarily resigns during the approved buyout window; or

4. Is not subject to any of the exclusions below.

An employee is not eligible to receive a buyout if the employee:

1. Is a re-employed annuitant;

2. Has a disability on the basis of which the employee is or would be eligible for a disability retirement;

3. Is serving under an appointment with a time limitation;

4. Has not been on-board with the agency without a break in service for 3 continuous years;

5. Has received a specific notice of involuntary separation for misconduct or unacceptable performance;

6. Is completing service in order to receive an approved "delayed buyout" under the Federal Workforce Restructuring Act of 1994;

7. Has received a buyout before but had not repaid it;

8. Is covered by statutory re-employment rights from another organization;

9. Has received a recruitment or relocation bonus within 24 months of separating to receive a buyout;

10. Has received a retention bonus within 12 months of separating to receive a buyout.

A buyout taker must repay the entire amount of the incentive to the agency which paid the buyout if the employee accepts employment with the Government of the United States or under a personal services contract within five years of separating with the incentive.

<u>Severance Pay Calculations</u>

The amount of severance pay would be one week's basic pay for each of the first ten years of civilian service, plus two weeks' basic pay for each year over ten years. An age adjustment allowance of ten percent is added for each year over forty. No credit is given for military service unless the service interrupted otherwise creditable civilian service and the employee returned to civilian service by exercising a legal restoration right. Total severance pay may not exceed one year's pay at the employee's pay rate immediately before separation. Appendix A contains a sample buy out worksheet and a required age adjustment table.

D. REGULAR RETIREMENT/REGULAR RETIREMENT WITH VSIP

Federal employees can choose regular retirement when their position is contracted out. The employees can be under one of two plans:

1. Civil Service Retirement System (CSRS).

2. Federal Employees Retirement System (FERS).

The CSRS covers all eligible civil service employees who were hired prior to 1984. It provides benefits based on grade and years of service. Many CSRS employees are eligible for retirement at age fifty-five with thirty years of service or age sixty with twenty years of service. FERS took affect on January 1, 1987. Generally, it included those employees hired after December 31, 1983, and any CSRS employees who chose to convert to FERS. The FERS provides federal employees a savings and retirement system with tax benefits similar to the private sectors 401K plans. Regular retirement of employees results in additional cost for unpaid leave. Retiring employee's VSIPs are calculated the same as separating employees.

E. VSIP WITH OPTIONAL VOLUNTARY EARLY RETIREMENT ANNUITY

The Office of Personnel Management (OMB) can authorize an agency to offer early retirement to eligible employees in certain jobs that are critical to the agency's operation. The agency may change this list before the early retirement window closes. A retirement window is a period of time during which eligible employees can take early retirement. Normally this coincides with the window during which buy outs are offered. An agency may set limits on the number of early retirements. Members are eligible for retirement as follows:

1. If under the CSRS, they must have served in a position covered by the CSRS for at least one year out of the two years immediately before retirement. This rule does not apply for employees under the FERS.

2. Candidates must be at least fifty years of age with twenty years of service or have twenty-five years of service at any age. At least five years must be civilian service, whether under CSRS or FERS.

3. Candidates must be serving under other than a temporary appointment.

4. Candidates must have been on an agency's rolls at least thirty days before the agency requested authority from OPM and served continuously since that date without a break in service.

<u>Early Retirement Calculations</u>

CSRS employees accepting early retirement under the voluntary early retirement authority will have a reduction in their annuity of two percent per year for each year they are under age fifty-five. This is a permanent reduction in the annuity. FERS employees will not have their annuities reduced under voluntary early retirement. Employees with both CSRS and FERS will only have a reduction for the CSRS portion of their service under age fifty-five. CSRS employees will receive service credit for any unused sick leave in determining their annuity. FERS employees do not receive sick leave credits. VERA employees are eligible for VSIP incentives.

F. REDUCTION IN FORCE (RIF)

The RIF is the least desirable and most expensive separation alternative. A RIF is regulated under Section Five of the Code of Federal Regulations (CFR). The CFR defines a RIF as, "those situations in which an agency releases a competing employee from his or her competitive level by furlough for more than thirty days, separation, demotion or reassignment requiring displacement when the release is required because of lack of work; shortage of funds; insufficient personnel ceiling; reorganization; the exercise of re-employment rights or restoration rights, or reclassification of an employee's position due to an erosion of duties when such action will take effect after an agency has formally announced a reduction-in-force will take affect within 180 days." [Ref. 7] All employees of the DOD can be RIFed except employees:

1. In Senior Executive Service (SES),

2. Whose appointment is required by Congress,

3. Terminated from a temporary or term promotion or returning to the position held before the temporary or term promotion or to one of equivalent grade and pay.

4. Changed to a lower grade after reclassifying an employee's position.

5. Changed to a lower grade after reclassifying an employee's position due to an erosion of duty.

All RIF's must be approved by OMB and can substantially increase short term costs. These costs include severance pay, lump-sum leave payments (up to thirty days), moving cost, and indirect/non budgetary costs associated with staff time in processing and administering a RIF (a placement program, and the handling of appeals and grievances). Later sections will discuss placement programs and labor-management implications of a RIF.

G. TRANSFER TO ANOTHER FEDERAL ACTIVITY

There are no short term costs associated with employees transferring to federal activities within commute distances. However, losing activities pay the moving expenses of employees transferring outside commuting distances. Activities can expect moving expenses similar to those described under PPP.

H. TERMINATION

It is inevitable that some employees will leave as a result of termination due to poor performance, unacceptable conduct, or for medical reasons. Terminations due to poor performance or unacceptable conduct will occur whether or not an activity is being outsourced or closed. Therefore, costs associated with these separations will

not be considered in this study. However, costs due to medical separation can increase for activities being closed or outsourced. In an interview for this thesis, the Director of the Human Resources Office at NPS stated that medical termination and disability claims will increase as outsourcing or closing becomes imminent. Commands will not only be faced with the short term costs of lump sum leave payments but will have indefinite disability payments.

I. VOLUNTARY RESIGNATION/SEPARATION

Voluntary separations or resignations are normally associated with junior or newly hired personnel. There are no costs associated with these two departure alternatives.

J. EARLY DEPARTURES

Short term costs for employees departing before their positions are terminated can be significant. The GAO studied a maintenance installation where an outsourcing cost study had been announced. GAO reported that affected employees began leaving for other jobs at the outset of the cost study. The permanent work force declined throughout the study process. The backlog of maintenance work increased. The government had to supplement the in-house work-force by hiring the contractor, on an interim basis, before the contract start date. The government had to pay an additional $550,000 on a $1 million contract to cover the maintenance backlog.

K. MISCELLANEOUS COST

Miscellaneous additional costs are associated with closing and outsourcing activities. When a significant number of positions are outsourced, activities usually set up career transition assistance teams. Many times, these teams involve new hires, which creates additional short term costs. Many non-quantifiable costs must be budgeted, including workman's compensation and environmental clean-up. Out-

sourcing activities experiencing bumping and retreating, as described in Chapter II will face additional costs for grade retention and pay retention. These costs can extend for over two years.

This chapter has illustrated the many costs base commanders must address when closing or outsourcing an activity. The cost per employee can vary from a few days of unpaid leave, to $40,000 to relocate transferring personnel. Costs can exceed $40,000 for workman's compensation payments and a RIF. The cost savings from closing an outsourcing activity are long term - normally well beyond the tenure of frequently rotating base commanders. Support from the Major Claimant level and above is required if outsourcing and the associated savings can be realized.

IV. DATA ANALYSIS

A. INTRODUCTION

Data pertaining to separation alternatives was gathered from the Naval Supply Center Oakland and NAS Alameda. Initially, it seemed data from two closing bases located in the same region would not represent the general circumstances faced by outsourcing activities. All bases in this local area are being closed. Therefore, outsourced employees don't have the opportunity to transfer to other local federal activities. However, considering the general downsizing within DOD, it is reasonable to assume that outsourced employees in most activities will not have the opportunity to transfer to another local federal agency. This chapter will give a brief history of NAS Alameda and the Naval Supply Center at Oakland (provided by the respective HROs), present the data gathered, and qualitatively discuss BRAC and outsourcing issues.

B. HISTORY OF NAVAL AIR STATION ALAMEDA

The keel for NAS Alameda was laid in December 1917, when Congressman John J. Mulvany decided the island would make an ideal naval base. The idea of a naval base was essentially unrealized until the late 1930's, at which time only a few buildings were in place. The base steadily grew until NAS Alameda was commissioned on November 1, 1940. The initial staff included 200 civilians and a small complement of active duty naval personnel.

The new naval air station grew rapidly during World War II and became known as, "The Aviation Gateway to the Pacific." After World War II, thousands left the station's payroll and returned to their former occupations. Under the "Program for Peace," NAS Alameda placed equal emphasis on all phases of its primary mission: providing facilities and support for fleet aviation activities. This included overhauling

and repairing fleet aircraft, supplying many types of aircraft and equipment, berthing and fueling the largest aircraft carriers, and providing military personnel training facilities. The station's total area covers 2,842 acres with runways designed to accommodate the largest aircraft. The 1992 BRAC selected NAS Alameda for closure. The final closure is scheduled for April 25, 1997.

Separation Method	**FY 1995**	**FY 1996**	**FY 1997 YTD 2/97**	**Total**
Regular Retirement	4	1	1	6
PPP	8	33	12	53
Voluntary Resignation	12	11	2	29
VSIP w/Regular Retirement	7	13	1	21
VSIP with VERA	0	18	4	22
VSIP upon Resignation	0	3	1	4
RIF with Separation	7	14	4	25
Transfer to other Activity	8	7	0	15
Termination	1	0	0	1
Stopper Match	3	0	0	3
Medical Termination	0	2	0	2
Total Separations	54	102	25	181

Table 4.1. NAS Alameda Data for FY 1995, 1996, 1997 YTD (2/3/97)

NAS ALAMEDA

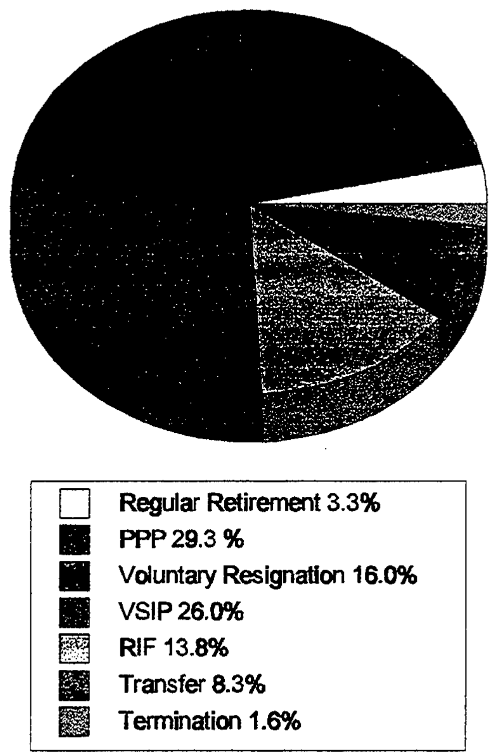

Figure 4.1. NAS Alameda FY 1995, 1996, YTD 1997 (2/3/97)

C. HISTORY OF THE NAVAL SUPPLY CENTER OAKLAND

As early as 1910, the Navy Department recognized the need for an adequate Naval base on San Francisco Bay. However, the idea for a Naval base on San Francisco Bay was dormant until 1936 when the Commandant of the 12th Naval District recommended the Oakland Middle Harbor site in West Oakland. In 1939, Congress authorized purchasing five hundred acres from the city of Oakland; the rest of the site was purchased from two railroad companies.

Like NAS Alameda, the Oakland base was a fledgling activity until the beginning of World War II. On December 15, 1941, the Navy Supply Depot was formally activated. During the next five years, the Supply Depot grew to an enormous supply machine for the Pacific theater. In the late 1940's, the depot made the transition to a Naval Supply Center and began to manage satellite sites and tenant activities.

Throughout the next fifty years, the Supply Center assumed numerous functions. In the mid-1950's, the center assumed financial functions for local area Naval activities and assumed a regional procurement and contracting role for local and overseas activities. In the late 1950's, Oakland became the first Supply Center to generate electronic data. The center began to prepare Supply Operations assistance programs for the Atlantic and Pacific fleets. In the mid-1970's, Oakland assumed the civilian personnel functions for the San Francisco Bay Public Works Center, and the California and Nevada Commissary Store Region.

The Oakland Supply Center grew to become a worldwide aviation supply support facility, providing state-of-the-art Navy warehousing. The center continued to expand its capabilities after the fall of the Soviet Union. In 1992, the BRAC commission slated the Center for closing. Oakland is scheduled to be closed on 30 Oct 1998.

Separation Alternative	FY 1994	FY 1995	FY 1996	FY 1997	Total
Regular Retirement	0	0	0	3	3
PPP	0	11	28	4	43
Voluntary Resignation	11	13	2	1	27
VSIP w/Reg. Retirement	0	0	0	0	0
VSIP w/VERA	12	13	0	0	25
VSIP upon Resignation	40	19	34	15	108
RIF w/Separation	0	28	42	5	75
Transfer to other Activity	5	26	19	2	52
Termination	0	2	0	1	3
Stopper Match	0	0	0	0	0
Medical Termination	0	1	1	0	2
Functional Transfer	71	3	0	0	74
Deaths	0	3	0	0	3
Total	139	119	126	31	415

Table 4.2. Naval Supply Center Oakland FY 1994, 1995, 1996, 1997 YTD (2/3/97)

NAVAL SUPPLY CENTER OAKLAND

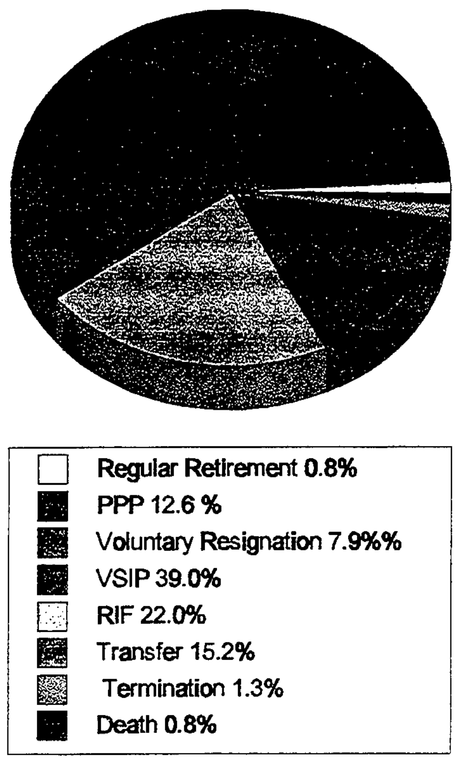

Figure 4.2. Naval Supply Center Oakland FY 1994, 1995, 1996, 1997 (2/3/97)

D. ANALYSIS

From a budgeting perspective, the primary objective in closing or outsourcing an activity is to complete the change at the lowest possible cost. Therefore, it is essential for activities to fund programs that give employees an incentive to voluntarily leave. Minimizing PPP, transfers, and the more expensive RIFs is critical. Oakland's functional transfers in 1994 and 1995 were not included in the separation percentage calculation. These functional transfers resulted in the bumping and retreating described in the previous chapter. The transfers were temporary and the employees eventually left under another alternative.

Alameda and Oakland kept their RIFs at approximately 14% and 22% respectively. However, the combination of RIFs, PPP and transfers to other activities totaled 53% and 49% for each activity. These numbers indicate an outsourcing activity could pay $ 38,000 or more for approximately 50% of its outsourced employees. Cost estimates of $ 38,000 or more is based on the studied activities committing $ 38,000 for each PPP or transfer and potential RIFs costs exceeding $ 38,000.

With DOD's declining budget, these short term costs can be prohibitive, preventing activities from realizing outsourcing's long term cost savings. For example, an activity hoping to outsource one hundred jobs can expect potential short term costs up to $ 1,900,000 or more. It is imperative that outsourcing activities get out in front of these cost by encouraging other alternatives. More important, further cost reduction can be achieved through voluntary departures.

E. DISCUSSION [3]

For BRAC'ed activities like Alameda and Oakland, the issue of separating employees is driven by the way the mission changes as the activity draws down. The comptroller must forecast through time the activity's mission and performance level. Activities have to manage the separation of employees while retaining those required to meet the mission. For example, a supply department can face an immediate decrease in mission requirements and personnel. At the same time, the personal property department may grow requiring additional personnel. In addition to meeting the changing mission, activities must deal with employees departing before their position becomes excess.

If an activity's mission does not change due to outsourcing, it will still have to control the flow of people. Some employees will depart as soon as they hear their function faces outsourcing. Others will remain to the end, at times scrambling to take an open position or engage in bumping and retreating. The activity must develop a system of incentives that will encourage employees to leave when the activity needs them to leave.

It is obviously desirable to avoid the costs associated with RIFs and other high cost separation alternatives. The example citing potential short term costs over $1,900,000 for every one-hundred jobs outsourced was given to shock activities in to getting out in front of these costs.

F. COST REDUCING ALTERNATIVES

The first alternative is for the command to conduct a job fair. Job fairs establish the mind set of voluntary separations. Job fair costs were estimated to be

[3]This discussion and subsequent sections in this chapter are based on interviews with the Comptroller of NAS Alameda, and the current and former Comptrollers of the Naval Supply Center at Oakland.

between $ 25,000 and $50,000. Job fairs will create a lot of excitement and awareness of the coming BRAC, but will not result in many employees receiving a firm offer. Oakland estimated that three to five employees were placed per job fair. Although not many employees were placed, the $5,000 to $10,000 cost per placed employee was significantly lower than a potential of $38,000 or more.

Another effective but more difficult alternative is for activities to contract with job placement agencies. Activities will pay a commission for each employee placed in a non government job. The contracting process is more difficult. Contracting offices have little experience with this contract type. The lack of experience can make the Command and its legal office nervous about the legal implications of paying a bounty to placement agencies. However, the activities get a guaranteed bang for the buck. For every XX dollars, an employee leaves the activity. Once commands are comfortable with the legal aspects of these contracts, they must determine what their comfort level is for each employee placed. Will it be $5,000 or $15,000? At either cost, the activity is reducing its short term cost below the VSIP maximum of $25,000.

Activities should consider funding continuing education programs. The BRAC and outsourcing process can take from one to five years to complete. This allows outsourced employees time to attend day and/or night classes to complete retraining. Employees who accept continuing education grants would voluntarily separate without the payment of VSIPs or other benefits. The success of continuing education programs depends on the region of the outsourcing activities. Areas like the San Francisco Bay Area and the Silicon Valley seem ideal for a continuing education program and that would lend to placement of a retrained employee in a private sector job.

G. HUMAN RESOURCES RESPONSIBILITIES

Besides developing a system of incentives that encourage outsourced employees to leave when the activity needs them to leave, the activity must convince the employees that their job is going away. People can be their own best friend or worse enemy. They can help or hurt themselves if they delay necessary decisions. Commands have a responsibility to get people to confront the issue as soon as possible. It can be compared to people facing the death of a loved one. The person will go through various emotional stages from grief to anger to denial. At some point, they realize that they have to do something. This is when the command can help them. Commands need to have knowledgeable people available to help outsourced employees. Major claimants must be prepared to fund Career Transition Assistance programs.

The data presented in this chapter shows that employees will leave via several different alternatives. However, many will stay right down to the last day. Some people think that the good competitive people will be aggressive and leave on their own. The comptroller interviewed for this discussion found that a lot of the very good, very competitive people believe that because they are so good they will be the last to go. While some of the best people are the best at their job, many are not able to emotionally deal with losing their job. This cuts across many skill levels, intellects, and seniority levels.

One comptroller found that senior level, GS-12 and GS-13, personnel presented interesting situations that are likely to occur at outsourcing activities. He found that many of the GS-12's and GS-13's who were not waiting to retire held on to the bitter end. They would begin to look around the command for other jobs. Activities must remember that these people are in a position to protect their jobs by making deals. He did not imply that there was "An overt thing to get everybody else

so I can hang on to a job." However, they do attend the big meetings and have the visibility that allows them to look around the command. His point was that activities need to carefully consider the "position" to be RIFed and not the "person." Favoritism can be detrimental to an already low morale.

This chapter has presented the data gathered from two activities selected by the BRAC commission, discussed the tangible short term cost associated with closure, proposed alternatives to reduce short term cost, and presented potential human resources issues. In addition to these issues, outsourcing activities will face many legal issues. The next chapter will address these legal issues.

V. REDUCTION IN FORCE AND LABOR-MANAGEMENT RELATIONS

A. INTRODUCTION

In addition to dealing with short term costs and human resources issues, activities facing a reduction in force must comply with relevant case law and the Federal Labor Relations Authority (FLRA). This chapter will review the relevant case law and the FLRA, and the impact of a RIF on Equal Employment Opportunities (EEO).

B. EMPLOYEES AND THE UNION

Since RIFs are usually driven by forces external to the control of management, the union and employees should be involved in all aspects of a RIF. The comptrollers interviewed for this thesis found that it is advantageous to inform employees of a RIF as soon as possible. This notification should include the positions affected, issues to be addressed, and should be updated frequently. This is similar to the Office of Personnel Management's (OPM) findings that, "the negotiability of a particular matter should not be an issue unless the parties are unable to reach consensus through partnership." This "partnership" is what the interviewed comptrollers found to be essential to implementing a RIF while limiting additional damage to morale.

Management/Labor partnerships are required by Executive Order 12871. This order states that each agency will "create labor-management partnerships by forming labor-management committees or councils at appropriate levels, or adapting existing councils or committees if such groups exist to help reform Government." Not all stakeholders can agree on all aspects of a RIF. Collective bargaining may be required to resolve these differences. [Ref. 8:p. 1] The next section provides an abbreviated review of OPM's March 1996 bulletin. Again, it is an abbreviated review that neither

includes all issues covered in case law nor does it give an exhaustive review of the cases discussed. Cases used to set the legal precedence will be included in brackets after the applicable law is cited.

C. LAW AND REGULATION REVIEW

An agency has the right to conduct a RIF under Title 5 United States Code (USC) Subsection 7106 (a)(2)(A) <USDA, Forest Service, 45 FLRA No. 21; Naval Underwater Systems Center, 29 FLRA No. 47; Kansas Army National Guard, 21 FLRA No. 4>. When implementing a RIF, agencies must adhere to the requirements of Chapter 35 of title 5, United States Code; OPM's Government-wide Regulations Part 351 of title 5, Code of Federal Regulations, and Chapter 71 of title 5. Agencies must include the applicable language of any existing contract, and are obligated to bargain over procedures and appropriate arrangements for employees affected by the RIF. [Ref. 9] Some issues that may require negotiation are:

1. Notice to employees.
2. Notice to unions.
3. Competitive areas.
4. Competitive levels.

D. NOTICE TO EMPLOYEES

OPM requires employees receive a written notice at least 60 days prior to the effective date of a RIF. The number of days is negotiable. NAS Alameda's contract negotiations require 60 days notice for less than 50 people and 120 days notice for more than 50 people. The written notice must contain the following information:

1. The action to be taken.

2. The reasons for the action.

3. The effective date.

4. The employee's competitive area.

5. The competitive level.

6. Subgroup.

7. Service date.

8. Annual performance ratings of record received during the last four years.

9. The place where the employee may inspect the regulations and record pertinent to the case.

10. The reasons for retaining a lower standing employee in the same competitive level.

11. Information on reemployment rights.

12. The employee's right to appeal to the Merit Systems Protection Board or to grieve under a negotiated grievance procedure. [Ref. 10]

Agencies may request approval from the Director of OPM for a notice period of shorter than 60 days (but no fewer than 30 days) if the RIF is caused by circumstances not reasonably foreseeable. [Ref. 11] OPM found that agencies also need to be aware that overly long notice periods may result in a greater number of employees separating via a RIF.

Appendix B illustrates FISC Oakland's Certificate of Expected Separation. This notification was issued early in the separation process. As indicated in the

Commanding Officer's remarks, excess positions are identified by a mock RIF. In the case of outsourcing, most positions will be determined during the outsourcing process. Additional supervisory positions will have to be determined through a process similar to a mock RIF. The letter authorizes early registration in the PPP, and informs the recipient of assistance available through the Job Training Partnership Act (JTPA) and the DOD Reemployment Priority List (RPL).

Appendix B also illustrates FISC Oakland's Notice of Separation by Reduction-in-Force (RIF). This employee was given sixty-five days notice. Not shown is the employee's signature verifying receipt of the notice.

E. NOTICE TO THE UNION

Unions have a statutory right under 5 USC subsection 3502 (d)(1)(A) to written notification of a management decision to implement a RIF. Under the law, the notice is the same as that provided to the employee, and notice must be given to the union when it is given to the employee. This right is independent of any rights under Chapter 71 of title 5 USC. This new requirement should not be viewed as relieving agencies of any obligation under Chapter 71 or current contract language to provide the union with sufficient notice and the opportunity to bargain over impact and implementation of the decision to conduct a RIF. Agencies and unions should review their current contracts to identify language concerning advance notice to the union. If the language is inconsistent with 5 USC Subsection 3502(d)(1)(A), the agency and the union should attempt to update the contract. The fact that the contract may provide for a shorter notice period to the union does not automatically release the agency from its obligation under subsection 3502 (d)(1)(A) -- especially if the contract was negotiated prior to the effective date of Public Law 102-484. [Ref. 8:p. 4]

F. COMPETITIVE AREAS

The way in which the competitive area is defined will have an impact on the scope of the RIF. A competitive area may include all or part of an agency. The minimum competitive area in the Department of the Navy is a bureau, major command, directorate or other equivalent major subdivision of an agency within the local commuting area. *In the field, the minimum competitive area is an activity under separate administration within the local commuting area* (italics added). A competitive area must be defined solely in terms of an agency's organizational unit(s) and geographical location, and it must include all employees, both supervisory and nonsupervisory within the defined competitive area. A broad competitive area will likely increase an employee's opportunity to displace other employees, thus affecting more employees. A more narrow competitive area will limit some employees' opportunities in a major RIF, but will 'contain' the affects of the RIF. [Ref. 8:p. 5]

The issue of competitive areas has been addressed by the courts on numerous occasions. The first case involved the Naval Aviation Depot, Cherry Point v. FLRA, 952 F.2d 1434 (D.C. Cir. 1992). The court addressed the issue of "vitally affects." The court ruled on the issue of negotiations in one unit affecting employees in another unit. The court found that "It has never been thought that the policies underlying the 'vitally affects' test are strong enough to overcome the far more fundamental principle involving the sanctity of certification/recognitionand exclusive representation." [Ref. 8:p. 6] The court's decision limits the scope of the competitive areas an outsourcing activity must include in negotiating with the local certified union.

The issue of including supervisory personnel in negotiations was reviewed by the FLRA. In <u>National Weather Service Employees Organization and Commerce</u>, 44 FLRA No.3, the FLRA, "viewed OPM's regulation as forcing the union to include supervisory personnel in the proposal rather than the union seeking on its own to

include them." [Ref 8:p. 6] Therefore, supervisory personnel are included in competitive area negotiations.

G. COMPETITIVE LEVELS

The code of federal regulations defines a competitive level for RIF purposes as, "all positions in the competitive area which are in the same grade (or occupational level) and classification series, and which are similar enough in duties, qualification requirements, pay schedules, and working conditions so that the incumbent of one position could successfully perform the critical elements of any other position upon entry into it, without any loss of productivity beyond that normally expected in the orientation of any new but fully qualified employee." [Ref. 12] In accordance with the FLRA, the competitive level of an employee is nonnegotiable. The negotiation of competitive levels would violate management's rights to assign employees to positions under section 7106(a)(2)(A).

This issue was addressed in Charleston Naval Shipyard, 44 FLRA No.55. This ruling addressed a proposal requiring the agency keep certain groups of employees in the same competitive level. The FLRA found that the proposal, "directly and excessively interferes with the Agency's rights to assign and select employees." [Ref. 8:p. 9]

All comptrollers interviewed for this thesis were aware of this right but believed that competitive levels are often negotiated. Negotiations were informal and driven by union rules regarding employee skills and seniority. They found they were often left with employees requiring significant additional training.

H. OTHER ISSUES

Other matters that unions may negotiate concerning the impact and implementation of a RIF might include: permitting employees paid release time to prepare resumes/applications/171's for a new job; access to office computers or copiers to

prepare documents used in job searches; paid release time for interviews; agency sponsored job fairs; outplacement and counseling for affected employees; retraining employees for different jobs, etc. [Ref. 8:p. 12]

I. EQUAL EMPLOYMENT OPPORTUNITY IMPLICATIONS

In February 1994, the GAO reported on the EEO implications of a RIF. The following is an excerpt from the Summary Statement of Nancy R. Kingsbury, Director Federal Human Resource Management Issues:

> GAO recently completed a review of the impact of reduction-in-force (RIFs) at three Department of Defense installations on groups covered by EEO laws.... GAO found that the RIFs resulted in separations of minorities in numbers disproportionate to the numbers in the workforce at the three locations reviewed. Women were separated in disproportionate numbers at two of the locations. In some cases, disproportionate numbers of separations occurred largely because members of these groups did not have the tenure, veteran's preference, or performance-adjusted seniority of non minorities or men. In other cases, the disproportionate separations occurred because minorities occupied a large proportion of the positions abolished and the employees had no assignment rights to other positions.... GAO analysis of the retention factors for civilian workers employed by the military services at the end of fiscal year 1991 showed that minorities and women ranked lower than their non minority and male counterparts in all retention factors. Thus, they may continue to be vulnerable to disproportionate separation rates in any future RIFs.... On the other hand, downsizing alternatives which emphasize encouraging voluntary retirements and resignations with separation incentives, may have the effect of relatively larger numbers of white males leaving voluntarily, and the overall diversity of the smaller workforce may improve.

Outsourcing activities have voluntary separation incentives available to encourage the separation of non minorities. VERA's and voluntary separations not only reduce short term costs but help maintain a diverse workplace. As stated by the

Director Federal Human Resource Management issues, RIFs separate more minorities than nonminorities. Maintaining a diverse workplace creates further incentives to minimize the number of employees separated by a RIF.

VI. CONCLUSIONS AND RECOMMENDATIONS

A. CONCLUSIONS

In response to the Navy's eye-glasses laboratory's announcement of a wider selection of attractive frames, the CNO asked "Why are we still making our own glasses?" The CNO's incredulous response reflects the growing sentiment in DOD of the need to outsource more of its support activities. The agency's Defense Science Board found that DOD could save $30 billion a year-more than the entire defense budget of all but five foreign countries- by turning over many of its subsidiary businesses to more-efficient commercial contractors. [Ref. 16:pp. 22-23] This thesis found that DOD's outsourcing procedures and incentives must be fundamentally changed to encourage outsourcing. These changes, combined with attention similar to the CNO's, will increase outsourcing activity and allow DOD to meet critical needs.

B. RECOMMENDATIONS

Because of declining defense budgets, short term costs can prevent activities from realizing the outsourcing's long term savings. Activities should have the proper combination of monetary incentives, job placement and retraining programs, staff skills, and legislation to encourage outsourcing. This should be looked upon as the necessary up front investment whenever substantial outsourcing initiatives are planned. The following changes are recommended:

1. Activities should fund programs that encourage employees to separate voluntarily. Activities must avoid the higher costs of PPP's, transfers, and RIF's.

2. Federal workers facing outsourcing should not be required to complete the PWS and MEO required to outsource their positions. An in-house

staff should be formed to complete these requirements. Each member of the in-house staff should have an opportunity to complete the OSO's course.

3. DOD should provide incentives for commands to begin and or complete outsourcing studies. A proper incentive structure would allow individual installations to keep a percentage of the outsourced savings and encourage them to focus on the long term costs savings.

4. Major claimants should fund outsourcing's short term costs, which include the cost of employee buy-outs, job fairs, job training programs, job placement programs, and transition assistance programs.

5. An outsourcing activity's staff should include personnel with human resources skills. These staffs should encourage outsourced employees to take advantage of job placement and retraining programs that reduce outsourcing's short term costs.

6. Outsourcing activities should use voluntary separation incentives to encourage the separation of non minorities. Using VERA's will limit the number of minority personnel lost and help maintain a diverse workplace.

In their article "Strategic Outsourcing" James Brian Quinn and Frederick G. Hilmer found that, "Two new strategic approaches, when properly combined, allow managers to leverage their companies' skills and resources well beyond levels available with other strategies. Those strategies are:

1. Concentrating the firm's own resources on a set 'of core competencies' where it can achieve definable preeminence and provide unique value for customers.

2. Strategically outsourcing other activities--including many traditionally considered integral to any company--where the firm has neither a critical strategic need nor special capabilities."

The United States has already established itself as the world's preeminent military force. Quinn and Hilmer's idea of leveraging of resources through outsourcing will be critical for DOD to maintain its preeminence while recapitalizing and modernizing its forces during a period of declining budgets.

APPENDIX A. VSIP WORKSHEET

Example of VSIP Estimation Worksheet

line 1.	Salary at time of separation (GS-14/10)	= $81,217
line 2.	Weekly Rate (line 1 divided by 52)	= $ 1,561.87
line 3.	Years of Service (see A and B below)	= 18
A.	If your length of service is LESS THAN 10 years, enter your length of service on line 3a.	
B.	If your length of service is MORE THAN 10 years:	
	1) enter your length of service:	18
	2) subtract 10 from your length of service:	- 10
	3) multiply the result, in this case, 8, by 2:	16
	4) add 10 to the amount listed in 3.	+ 10

		26
	5) enter this total on line 3a. This is the factor for your adjusted years of service and tells you APPROXI-MATELY the number of weeks of severance pay you would be entitled to.	
line 3 a.	Adjusted Years of Service	= 26
line 4.	Basic Severance Pay (multiply amount on line 2 by number on line 3a -- Adjusted Years of Service)	= $40,608.50
line 5.	Age Adjustment Factor (if your age is above 40, look your age up on the "AGE TABLE AND FACTOR" chart attached. Enter the "factor" number shown).	
line 6.	Severance Pay Amount	
	Multiply line 4 by line 5 factor 40608.50 X 2.20	= $89,338.70

line 6a. If line 6 exceeds line 1, enter amount on line 1.
The amount of severance pay will be $81,217

Buyout Amount

If line 6a exceeds $25,000 (or a lower maximum amount set by the agency head), but is more than line 1, enter amount on line 1.

OR

If line 6a does not exceed $25,000 (or a lower maximum amount), but is more than line 1, enter amount on line 1.

YOUR BUYOUT AMOUNT: $25,000

Buyout Estimation Worksheet

line 1.	Salary at time of separation (GS- __)	= __________
line 2.	Weekly Rate (line 1 divided by 52)	= __________
line 3.	Years of Service (see A and B below)	__________
A.	If your length of service is LESS THAN 10 years, enter your length of service on line 3a.	
B.	If your length of service is MORE THAN 10 years:	
	1) enter your length of service:	___
	2) subtract 10 from your length of service:	- 10
	3) multiply the result by 2:	___
	4) add 10 to the amount listed in 3)	+10
		___
	5) enter this total on line 3a. This is the factor for your adjusted years of service and tells you APPROXIMATELY the number of weeks of severance pay you would be entitled to.	
line 3a.	Adjusted Years of Service	__________
line 4.	Basic Severance Pay (multiply amount on line 2 by number on line 3a -- Adjusted Years of Service)	= __________
line 5.	Age Adjustment Factor (if your age is above 40, look your age up on the "AGE TABLE AND FACTORS" chart below. Enter the "factor" number shown).	= __________
	Age = ___ years and ___ months. Factor	
line 6.	Severance Pay Amount Multiply line 4 by line 5 factor	$ __________

line 6a.	If line 6 exceeds line 1, enter amount on line 1. The amount of severance pay will be	$ ________
line	Buyout Amount If line 6a exceeds $25,000 (or a lower maximum amount set by the agency head) but is more than line 1, enter amount in line 1. 0R If line 6a does not exceed $25,000 (or a lower maximum amount), but is more than line 1, enter amount on line 1.	

YOUR BUYOUT AMOUNT: $ ________

Age Table and Factors

Yrs.	Mos.	Factor	Yrs.	Mos.	Factor	Yrs.	Mos.	Factor
40	3-5	1.025	48	4-8	1.850	56	9-11	2.675
40	6-8	1.050	48	9-11	1.875	57	0-2	2.700
40	9-11	1.075	49	0-2	1.900	57	3-5	2.725
41	0-2	1.100	49	3-5	1.925	57	6-8	2.750
41	3-5	1.125	49	6-8	1.950	57	9-11	2.775
41	6-8	1.150	49	9-11	1.975	58	0-2	2.800
41	9-11	1.175	50	0-2	2.000	58	3-5	2.825
42	0-2	1.200	50	3-5	2.025	58	6-8	2.850
42	3-5	1.225	50	6-8	2.050	58	9-11	2.875
42	6-8	1.250	50	9-11	2.075	59	0-2	2.900
42	9-11	1.275	51	0-2	2.100	59	3-5	2.925
43	0-2	1.300	51	3-5	2.125	59	6-8	2.950
43	3-5	1.325	51	6-8	2.150	59	9-11	2.975
43	6-8	1.350	51	9-11	2.175	60	0-2	3.000
43	9-11	1.375	52	0-2	2.200	60	3-5	3.025
44	0-2	1.400	52	3-5	2.225	60	6-8	3.050
44	3-5	1.425	52	6-8	2.250	60	9-11	3.075
44	6-8	1.450	52	9-11	2.275	61	0-2	3.100
44	9-11	1.475	53	0-2	2.300	61	3-5	3.125
45	0-2	1.500	53	3-5	2.325	61	6-8	3.150
45	3-5	1.525	53	6-8	2.350	61	9-11	3.175
45	6-8	1.550	53	9-11	2.375	62	0-2	3.200
45	9-11	1.575	54	0-2	2.400	62	3-5	3.225
46	0-2	1.600	54	3-5	2.425	62	6-8	3.250
46	3-5	1.625	54	6-8	2.450	62	9-11	3.275
46	6-8	1.650	54	9-11	2.475	63	0-2	3.300
46	9-11	1.675	55	0-2	2.500	63	3-5	3.325
47	0-2	1.700	55	3-5	2.525	63	6-8	3.350
47	3-5	1.725	55	6-8	2.550	63	9-11	3.375
47	6-8	1.750	55	9-11	2.575	64	0-2	3.400
47	9-11	1.775	56	0-2	2.600	64	3-5	3.425
48	0-2	1.800	56	3-5	2.625	64	6-8	3.450
48	3-5	1.825	56	6-8	2.650	64	9-11	3.475

APPENDIX B. RIF NOTIFICATION

From: Commanding Officer, Fleet and Industrial Supply Center Oakland

To:

Subj: CERTIFICATE OF EXPECTED SEPARATION

Ref: (a) DoD CPMS-AAW ltr dtd 16 September 1996

Encl: (1) Early Priority Placement Program Registration Form

1. As you are aware, the Fleet and Industrial Supply Center (FISC), Oakland was identified for closure under the Base Realignment and Closure 1995 decisions. In response to this mandate, FISC Oakland is faced with implementing a phased drawdown of its civilian workforce toward closure. The current Most Efficient Organization (MEO) date 28 June 1996, details FISC Oakland's drawdown plans and you may face a reduction-in-force (RIF).

2. To minimize the need for RIF, reference (a) has authorized FISC Oakland approval for the two year early Priority Placement Program (PPP) registration to those employees expected to be separated by RIF on or before 30 September 1998. Because I would like to provide every opportunity to employees who may be separated, I have requested that a mock RIF be conducted to determine those employees who would be adversely affected. Regretfully, you were identified as an employee to be separated. At least 120 to 60 days before the RIF action will affect you, you will receive a specific RIF notice giving you information on the determinations made concerning your position, your retention standing and benefits and programs available to you.

3. This letter authorizes you early registration into the PPP. The Human Resources Office (HRO) will schedule briefings to provide you with the information you need regarding early registration. Other programs for which you qualify are as follows:

- DoD PPP. this certificate allows you to register in the DoD PPP, if you are not already registered. The DoD PPP gives you mandatory placement in vacancies which match your skills and grade levels, at DoD locations for which you register. early registration is voluntary. Please indicate on enclosure (1) if you would like to register in the PPP at this time. Return enclosure (1) to__________ at the FISC HRO Site Office, Bldg 321-1, 1st floor, by close of business 04 October 1996.

- DoD Reemployment Priority List (RPL). Because you have received this certificate, you can register fir the RPL. registering gives you priority reemployment

consideration for DoD jobs within your commuting area over certain non-DoD job applicants.

- Job Training Partnership Act (JTPA). The U.S. Department of Labor provides funding through the state for employees like you who may be facing separation. various types of retraining and readjustment assistance such as counseling, testing, placement assistance, support services and financial counseling are available to you. You will need to take this letter to your local Employment Development Department (EDD) Office and inquire about registration into the program.

4. Please remember this is not a reflection on your performance or conduct, but is necessitated solely by the need to reduce the workforce due to base closure. I realize this action will have a major impact on you life and future, and I can assure help and assistance will be provided. If you have any questions, please contact__________ at__________ at the HRO Site Office.

R. C. RIEVE

From: Commanding Officer
To:

Subj: **NOTICE OF SEPARATION BY REDUCTION-IN-FORCE (RIF)**

Ref: (a) 5 CFR 351

Encl: (1) DoD Program for Stability of Civilian Employment

1. Under Base Realignment and Closure 1995 (BRAC 95) decisions, the Fleet and Industrial Supply Center (FISC), Oakland was identified for closure. In response to this mandate, FISC Oakland is faced with implementing a phased draw-down of its civilian workforce toward closure. This action warrants the necessity to conduct a RIF. Regretfully, you will be released from your competitive level, and will be separated from the rolls effective 11 April 1997.

2. The following information concerning your retention preference is as follows:

Current Position Title:	Lead Transportation Assistant (OA)
Pay Plan/Series/Grade:	GS-2102-6
Competitive Level:	AAH6
Retention Subgroup:	IB
Service Computation Date:	3-16-88
Annual Service Computation Date:	30 June 96 - Level 5
	30 June 95 - Level 5
	30 June 94 - Level 4

Adjusted Service Computation: 3-16-69

3. Any questions you may have concerning this action should be directed to ______________ who will assist you in every possible way. retention registers and pertinent regulations are available for your review at the Human resources Site Office, Building 321-1C, FISC Oakland. If after examination of the retention registers and pertinent regulations, you feel that any of your rights have been violated, you have the right to grieve this separation action through the negotiated grievance procedure. Your grievance must be submitted in writing to the Human Resources Site Office within fifteen (15) working days from the effective date of this RIF action in accordance with Article XXVIII of the negotiated agreement.

4. You have the option of pursuing this matter either through the negotiated grievance procedure or with the Merit Systems Protection Board (MSPB), San Francisco Regional Office, 250 Montgomery Street, Suite 400, San Francisco. CA 94104, if you believe this action is based on unlawful discrimination under 5 USC Section 2302 (B) (1). Your appeal to the MSPB must be in writing and filed no later than 30 calendar days after the effective date of this action. Enclosure (1) contains information regarding the MSPB appeal procedures and appeal form.

5. As a career/career-conditional employee you may be entitled to the following:

a. To be registered in the Reemployment Priority List, and the Department of Defense Priority Placement Program (PPP) as described in enclosure (1).

b. Although no offer of continuous employment can be made at this time, placement efforts will continue and you will be advised of any offer for continued employment by separate notice. If placement is not possible, you will be separated on the effective date specified in paragraph 1 above. You will continue in a duty status in your present position during this notice period. If you are separated, you may be entitled to severance pay under the provisions outlined in enclosure (1) and reference (a) and you will receive a lump-sum payment for unused annual leave to your credit. Enclosure (1) also contains pertinent information on placement assistance programs, retirement, life and health insurance, leave, pay, and unemployment compensation.

6. This action is not a reflection on your performance or conduct, but is necessitated solely by the need to reduce the workforce due to budget constraints. I realize this action will have a major impact on your life and future, and I can assure you help and assistance will be provided. I have sincerely appreciated the service you have rendered towards the accomplishment of the FISC Oakland mission.

R. C. RIEVE

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8. Labor-Management Relations Implications of Reduction in Force and Reengineering, United States Office of Personnel Management, March 1996.

9. Title 5 United States Code Subsection 7106 (a)(2).

10. Title 5 Code of Federal Regulations 351.802 (a)(1)-(6); Title 5 United States Code 3502 (d)(2)(A)-(E).

11. Title 5 Code of Federal Regulations 351.801 (b); Title 5 United States Code Subsection 3502 (e).

12. Title 5 Code of Federal Regulations 351.403 (a).

13. Title 5 Code of Federal Regulations 351.504 (b)(2).

14. Title 5 Code of Federal Regulations 351.504 (b)(3).

15. Title 5 Code of Federal Regulations 351.504 (d)(1)-(3).

16. Newman, Richard J., "Operation Fix-My-Bifocals," U.S. News & World Report, March 17, 1997.

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